

**BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS**  
**IN MEDICINE AND SURGERY**

IN THE MATTER OF:

**HENRY TOMLINSON D.O.**

Holder of License No. **2639**

In the application to hold a license and practice  
of osteopathic medicine in the State of Arizona

) **Case No.: DO-08-4073, DO-08-4140,**  
) **DO-08-4159, DO-08-4160 and**  
) **DO-09-0101**

) **CONSENT AGREEMENT FOR**  
) **SURRENDER OF LICENSE**

**CONSENT AGREEMENT**

By mutual agreement and understanding, between the Arizona Board of Osteopathic Examiners in Medicine and Surgery ("Board") and Henry Tomlinson, D.O. ("Respondent"), the parties agreed to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges that he has the right to consult with legal counsel regarding this matter and has done so or chooses not to do so.

2. By entering into this Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

4. Respondent admits to the statement of facts and conclusions of law contained in the Consent Agreement and Order.

1           5.       This Consent Agreement, or any part thereof, may be considered in any future  
2 disciplinary action against Respondent.

3           6.       This Consent Agreement does not constitute a dismissal or resolution of other  
4 matters currently pending before the Board, if any, and does not constitute any waiver, express or  
5 implied, of the Board's statutory authority or jurisdiction. The acceptance of this Consent  
6 Agreement does not preclude any other agency, subdivision or officer of this State from  
7 instituting other civil or criminal proceedings with respect to the conduct that is the subject of  
8 this Consent Agreement.

9           7.       All admissions made by Respondent are solely for final disposition of this matter  
10 and any subsequent administrative proceedings or litigation involving the Board, Respondent and  
11 the State of Arizona; and, therefore, said admissions by Respondent are not intended for any  
12 other purpose or administrative regulatory proceeding or litigation in another state or federal  
13 court.

14           8.       Upon signing this agreement, and returning this document (or a copy thereof) to  
15 the Board's Executive Director, Respondent may not revoke the acceptance of the Consent  
16 Agreement. Respondent may not make any modifications to the document. Any modifications to  
17 this original document are ineffective and void unless mutually approved by the parties.

18           9.       If the Board does not adopt this Consent Agreement, Respondent will not assert as  
19 a defense that the Board's consideration of this Consent Agreement constitutes bias, prejudice,  
20 prejudgment or other similar defense.

21           10.      This Consent Agreement, once approved and signed, is a public record that will  
22 be publicly disseminated as a formal action of the Board and will be reported to the National  
23 Practitioner Data Bank and to the Board's website.

11. If any part of the Consent Agreement is later declared void or otherwise unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force and effect.

REVIEWED AND ACCEPTED THIS 19 DAY OF October, 2009.



Henry Tomlinson, D.O.



Michael Ryan Esq., Respondent's Counsel

### **JURISDICTIONAL STATEMENTS**

1. The Board is empowered, pursuant to A.R.S. § 32-1800 *et seq.*, to regulate the practice of osteopathic medicine in the State of Arizona, and the conduct of the persons licensed, registered, or permitted to practice osteopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 2639 issued by the Board for the practice of osteopathic medicine in the State of Arizona.

### **FINDINGS OF FACT**

1. Between May 7, 2008 and April 28, 2009, the Board received complaints from four women alleging that Respondent had touched them in a sexually inappropriate manner during the course of examination or treatment. The Board initiated cases No. DO-08-4073 and DO-08-4159 in response to these complaints.

2. During the same time period, the Board received information from the Casa Grande Police Department that they were investigating the similar complaints. The Board included that information in Case No. DO-08-4159.

3. On October 30, 2008, as part of the investigation of Case No DO-08-4159, the Board issued to Respondent an Order for Psychosexual Evaluation and Neuropsychological Evaluation.

4 In September 2008, the Board received complaints from two patients that Respondent had closed his office without notice, and failed to provide those patients with test results and medical records necessary for continuation of their medical care. The Board initiated cases No. DO-08-4140 and DO-08-4160 in response to these allegations.

5. On or about July 9, 2009, Case No. DO-09-0101 was initiated, alleging that Respondent had failed to obtain the ordered evaluations (see paragraph 3, above).

6. On July 13, 2009, through his attorney, Respondent offered to surrender his license to practice osteopathic medical license.

## CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter herein.

2. The allegations described in paragraphs 3 and 5 above constitutes unprofessional conduct as defined by the following A.R.S. § 32-1854 subsection (6); which states, "Violating a formal order, probation or a stipulation issued by the Board under this chapter."

3. The Board has the authority to informally dispose by stipulation, agreed settlement, consent order or default pursuant to A.R.S. § 41-1092.05 (F) (5).

4. The Board possesses statutory authority to enter into a consent agreement with a physician and accept the surrender of an active license from a physician who has admitted in writing to an act of unprofessional conduct. A.R.S. § 32-1855 (M).

## ORDER

1. **IT IS HEREBY ORDERED THAT** License Number 2369, issued to Henry Tomlinson, D.O., for the practice of osteopathic medicine in the State of Arizona, is **SURRENDERED**, and that Henry Tomlinson, D.O. shall immediately return his wallet card and shall no longer engage in the practice of medicine in the State of Arizona after the effective date of this Order.

2. Any violation of this Consent Agreement constitutes unprofessional conduct and may result in disciplinary action and or referral to the appropriate criminal agency.

ISSUED THIS 21<sup>st</sup> DAY OF Nov, 2009.  
STATE OF ARIZONA BOARD  
OF OSTEOPATHIC EXAMINERS IN  
MEDICINE AND SURGERY

By: Elaine LeTarte  
Elaine LeTarte, Executive Director

Original "Consent Agreement for Surrender  
Of License" filed this 21<sup>st</sup> day of Nov 2009 with the:

Arizona Board of Osteopathic Examiners  
In Medicine and Surgery  
9535 East Doubletree Ranch Road  
Scottsdale AZ 85258-5539

Copy of the foregoing "Consent Agreement  
For Surrender of License" sent via certified,  
return receipt requested this 23<sup>rd</sup>  
day of Nov, 2009 to:

Henry Tomlinson D.O.  
Address of Record

Michael Ryan, Esq.  
Broening Oberg Woods & Wilson PC  
1122 E Jefferson Street  
Phoenix, AZ 85036

Copies of the foregoing "Consent Agreement  
For Surrender of License" sent via regular  
mail this 23<sup>rd</sup> day of Nov, 2009 to:

M. Harris, E. Conner, AAG  
Office of the Attorney General CIV/LES  
1275 West Washington  
Phoenix AZ 85007

Kathy Fowler

7006 0810 000 2 2000 5993  
to atty